IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 7362 OF 2006

M. P. Krishnan (since decd.)
through his L.Rs.. .... Petitioners.

Versus

Mansibai Devichand Jain..... Respondent.

Mr. Anil Subramanium for the Petitioners.
None present for the Respondent.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard Mr. Anil Subramanium, learned Counsel for the petitioner. None present for the respondents.

2. Civil Suit No. 370 of 1988 which was filed for seeking decree of eviction on the ground of arrears of rent as also bonafide requirement, came to be decreed by the learned Judge, Small Causes Court at Pune. By the judgment and order passed by the learned Judge on 18th December, 2004, the suit was decreed and the defendant was directed to handover vacant and peaceful possession of the suit premises to the plaintiff. Aggrieved by the said judgment and order, the

defendant filed Appeal No. 60 of 2005 which came to be dismissed by the learned 8th Adhoc Additional District Judge, Pune, vide his judgment and order dated 24th March, 2006.

3. In this writ petition the judgment and order passed by the lower appellate court dismissing the appeal and thereby confirming the judgment and order passed by the learned trial Judge, under the Bombay Rents Hotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation of delay, if any.

5. Annexures to the petition memo be returned, if applied for.

6. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)